



CAPITAL PARTNERS, INC.

BTDJM Phase II Associates, LLC

922 Laguna Street, Santa Barbara, CA 93101

VOICE: 805-962-4300 FAX: 805-962-4343

info@djmcapital.com – www.djmcapital.com

August 23, 2010

Chairman Farley and Members of the Planning Commission
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

RE: August 24, 2010, Planning Commission Meeting, Public Hearing Agenda Item B-1; The Village at Bella Terra & Costco; Staff Recommended Conditions of Approval

Dear Chairman Farley and Members of the Planning Commission:

BTDJM Phase II Associates, LLC (the "Applicant" or "DJM") strongly objects to and opposes the following "Suggested Conditions of Approval" for Site Plan Review No. 10-001 recommended by City staff:

1. Location of at-grade pedestrian connection with Levitz property (COAs 1.a and 2.a).
2. Pedestrian accessway and surface treatment within area between Costco and Residential Parking Garage (COAs 1.b and 2.b).
3. Police Department recommendation for eight foot wall along entire west property (Code Requirement, Attachment No 16.29).
4. Parking Management Plan approved prior to issuance of building permits (COAs 4.b and 6.a).
5. On-site parking survey one year after issuance of Costco Certificate of Occupancy (COA 4.b.iii).
6. Cash bond for one and half times one half the cost of the at grade pedestrian connect to Levitz prior to building permit (COA 6.b).

The reasons for the Applicant's objections are summarized below:

1. COAs 1.a & 2.a: The City staff recommended COAs read as follows: *"An at-grade pedestrian connection with ADA access, shall be provided on-site along the west property line to connect to a future at grade bridge across the railroad tracks and flood control c channel to the property to the west. The access point shall be a minimum of 10 feet wide and be located along the west property line approximately 655 feet north of Edinger Avenue. The On-site pedestrian connection shall be blocked from access until such time as a on-grade bridge is constructed and completed."*

Late Communication Item B-1 – PC Meeting 8/24/2010



CAPITAL PARTNERS, INC.

BTDJM Phase II Associates, LLC
922 Laguna Street, Santa Barbara, CA 93101
VOICE: 805-962-4300 FAX: 805-962-4343
info@djmcapital.com – www.djmcapital.com

Applicant Response:

There has been quite a bit of discussion regarding the pedestrian connection between the Village at Bella Terra and the Levitz Site. First and foremost, we have always and continue to support the concept of a pedestrian connection between these projects. However, we have some concerns regarding the location of this connection.

In the most recent version of the Village at Bella Terra (“VABT”) Conditions of Approval, City Staff requires that the access point should be “655 feet north of Edinger Avenue.” We continue to believe that this is not the appropriate place for this connection, as it feeds into the back alley behind Costco. Although there will be a pedestrian sidewalk at that location (as required by ADA), we don’t feel that leading pedestrians along an alley aligned with the back of Costco and a parking garage provides the best pedestrian experience. We also have concerns regarding safety, which were echoed in the comments from the Police Department regarding the need for additional lighting along Costco’s western edge. Additionally, since this will be Costco’s primary fuel truck route, we do not recommend feeding pedestrians through this location.

We would propose that our Conditions be revised to require a pedestrian connection somewhere between 225 and 655 feet north of Edinger Avenue. These dimensions run from the southernmost edge of the VABT residential units to the location that is currently proposed. This allows us (Planning, DJM, and the Levitz property owner) to collaborate and determine the best placement for the bridge at a later date.

DJM Suggested Condition: An at-grade pedestrian connection with ADA access shall be provided on-site along the west property line to connect to a future at grade bridge across the railroad tracks and flood control channel to the property to the west. The access point shall be a minimum of 10 feet wide and be located along the west property line at a point between 225 and 655 feet north of Edinger Avenue. The precise location of the connection shall be determined by the Planning Director, in collaboration with the Applicant and the owner/developer of the property to the west, at the time the property to the west is approved for development.

2. COAs 1.b and 2.b: The City staff recommended COAs read as follows: *“The 41 foot, six inch wide area between the south side of Costco and the residential parking garage shall be designed to accommodate a minimum 26 foot wide fire lane as well as an architecturally pleasing pedestrian and bicycle connection to the properties to the west. The pedestrian connection shall include enhanced landscaping, decorative hardscape, lighting, benches, and other appropriate amenities to encourage pedestrian and bicycle activity. The required fire lane should be construction of drivable turf bloc, subject to the approval of the Fire Chief.”*



CAPITAL PARTNERS, INC.

BTDJM Phase II Associates, LLC

922 Laguna Street, Santa Barbara, CA 93101

VOICE: 805-962-4300 FAX: 805-962-4343

info@djmcapital.com – www.djmcapital.com

Applicant Response:

We wish to make a clarification regarding the alley behind Costco. The staff report states (at page 26) that “Although the applicant opposes the enhancement and improvement of the access way between the Costco building and the residential parking garage, their own site plan and landscaping depicts bicycle parking, sidewalk area, turf block, and enhanced landscaping.” While staff is correct that DJM’s intent is to make this into a reasonably pleasant place in order to ensure the area is safe for our residents and the patrons of the Bella Terra Shopping Center. However, our efforts to make this a safe place do not imply that we believe pedestrians should be encouraged to walk through this area, as staff’s recommended placement of the pedestrian bridge suggests. DJM would also note that although we would prefer to install turf block, we do not know if this will be acceptable to Costco since this is Costco’s primary fuel truck route. Should Costco’s fuel trucks not be able to maneuver on this kind of surface on a daily basis, we might need to use an alternative material.

DJM Suggested Condition: The 40 foot wide area between the south side of Costco and the residential parking garage shall be designed to accommodate a minimum 26 foot wide fire lane as well as an architecturally pleasing pedestrian walkway.

3. Attachment No. 16.29 The Police Department recommendation:–“An 8’, preferably higher, wall is recommended to separate the two uses. When each use is separate, potential offenders cannot enter the residential village from the railroad right-of-way, and in turn, people from the residential property (specifically offenders) cannot escape into the railroad track and/or adjacent property unnoticed.”

Applicant Response:

We agree with the reciprocal access safety concern; however, we do not agree with an 8 foot fence, the reason being that we are proposing a 4 foot high retaining wall along the western edge of the property to accommodate the new grade change elevations and on top of that would propose something more architectural pleasing than a masonry fence such as a 4’ high decorative iron fence. This would keep 8 feet on the railroad side but be more architecturally pleasing to the residents and lessen the risk of the wall becoming covered with graffiti.

DJM Suggested Recommendation: A 4’ decorative iron fence on top of the retaining wall to separate the two uses.

4. COA 4.b & 6.a: The introduction to the City staff recommended COA 4.b reads as follows: “A Parking Management Plan shall be submitted for review by the Planning and



CAPITAL PARTNERS, INC.

BTDJM Phase II Associates, LLC

922 Laguna Street, Santa Barbara, CA 93101

VOICE: 805-962-4300 FAX: 805-962-4343

info@djmcapital.com – www.djmcapital.com

Building Department. The Parking Management Plan shall be approved prior to issuance of building permits on the site and shall include the following:...” In addition, the City staff recommended COA 4.b.iii includes language (commencing in the second sentence) suggesting that possible solutions to any parking problem identified in the Parking Management Plan might include requiring the property owner to construct additional parking on-site or to leave tenant spaces vacant. COA 6.a repeats the requirement for approval of a Parking Management Plan prior to issuance of building permits.

Applicant Response:

A detailed shared parking study has been prepared by the firm of Linscott Law & Greenspan (Attachment No. 15.1-15.42 to your staff report) and will have been reviewed by the City prior to the Planning Commission’s and City Council’s approval of the VABT and Costco projects. The LL&G parking study, which is largely based on actual parking survey information from the existing established Bella Terra Shopping Center, establishes there will be a significant surplus of parking to serve all uses at all times and under all conditions. There is no reason to believe that the LL&G parking study is erroneous and no reason for the City to believe the analysis or conclusions in the LL&G parking study will change prior to development of the VABT or Costco projects—hence, there is no need for an *additional* parking study or “Parking Management Plan” prior to issuance of building permits. The existence of a COA that effectively gives the Planning and Building Department the right to override the parking analysis that forms the basis for the Planning Commission’s and City Council’s approvals of the VABT and Costco projects and to veto the project approval(s) is deeply troubling to DJM (on what basis would the Planning and Building Department exercise its discretion?) and places the entire project approval at risk. This COA is also unnecessary. DJM is willing to prepare a Parking Management Plan in what we believe to be the highly unlikely and speculative event that a real-life parking problem emerges *after the project is built and is in operation*, but no purpose is served by forcing DJM to prepare a highly speculative plan to propose possible solutions to a non-existent problem.

If in the highly unlikely event an on-site parking problem *does* occur and DJM is required to prepare a PMP, DJM is prepared to implement all reasonable and feasible measures identified in the approved PMP that must be implemented in order to mitigate the identified gap between parking demand and supply. DJM requires clarification, however, that it will not be compelled to construct extremely expensive additions to the existing on-site parking structure or close down or leave unoccupied tenant spaces within the VABT or Bella Terra Shopping Center sites, “solutions” that presumably the City would not endorse either.

DJM Suggested Condition: Revise COA 4.b to delete the introductory language prior to subparagraph 4.b.i. Revise COA 4.b.iii commencing with the second sentence to read as follows: “If the survey demonstrates that the on-site parking is more than 95%



occupied, at least three times per week, for a duration of at least two hours, then the property owner shall prepare a Parking Management Plan (“PMP”) and submit the PMP to the Planning and Building Department for approval. The PMP shall propose means for mitigating any identified on-site parking deficiency, including one or more of the following: re-striping parking spaces to add parking spaces, if feasible; expanding the on-site valet parking program; converting common areas not used for parking to parking uses, if feasible; providing employee parking at an offsite location with a shuttle service; promoting employee carpooling or alternative transportation options; or other options identified by the property owner and acceptable to the City. The parking management strategies, such as valet or shuttle service, shall only be required to be implemented on the days of the week and times of the day that the parking surveys reveal greater than 95% occupancy. In no event shall the PMP require the property owner to construct additional structured parking on or off of the Site or to leave tenant spaces unoccupied; provided, that the property owner may be prohibited from changing the use of any tenant spaces to a use that generates a higher parking demand based on City code requirements.”

5. COAs 4.b.iii.1: The City staff recommended COA reads as follows: *“An on-site survey shall be conducted by a licensed traffic engineer to determine the parking demand in relation to the parking supply prior to anyone of the following events: 1. One year after the issuance of the Costco Certificate of Occupancy.”*

Applicant Response:

DJM has already submitted an on-site parking survey for Costco and the VABT and disagrees that we should be required to provide another one after Costco opens. We agree with the two other thresholds (4.B.iii.2 & 3) for providing a new on-site parking study. COA 4.b.iii.1 should be deleted and COA 4.b.iii.2 and 3 should be re-numbered 4.b.iii.1 and 2, respectively.

6. COA 6.b: The City staff recommended COA reads as follows: *“The applicant shall submit a cash bond for one and one half times the amount of half the construction cost of the future off-site pedestrian and bicycle at-grade connection to the property to the west (former Levitz site) as described in Code Requirements. The total construction cost shall be estimated by the developer subject to review and approval by the City. The bond shall include a sunset clause; specifically, if the irrevocable reciprocal access agreement is not implemented within ten years of the date of this entitlement approval, then the bond shall be returned to the property owner.”*



CAPITAL PARTNERS, INC.

BTDJM Phase II Associates, LLC

922 Laguna Street, Santa Barbara, CA 93101

VOICE: 805-962-4300 FAX: 805-962-4343

info@djmcapital.com – www.djmcapital.com

Applicant Response:

DJM is willing to accommodate a cross-easement for pedestrian and bicycle access between the VABT site and the adjacent property to the west, assuming the connection is in an acceptable location (see Issue #1 above). There is no nexus between any impacts of the VABT or Costco projects and the need for any such connection, however; accordingly, it is not appropriate for the City to impose on the Applicant the obligation to bond for the cost (indeed, for 150% of the cost!) of the connection. The VABT project and the existing Bella Terra Shopping Center will derive no benefit from such a connection, which creates substantial privacy, security, safety, and maintenance concerns. It is also unknown when the adjacent Levitz property may develop or what development may occur there, whether access across the flood control channel can be obtained, and what the cost of a connection over the flood control channel may be (although it is likely to be expensive). Under these circumstances, if the adjacent property owner does choose to develop at some point in the future and the connection can be secured, the adjacent owner should be required to pay the full cost of this improvement.

Thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Parton", written in a cursive style.

Lindsay Parton